THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO.26191 OF 2005

Dated: 07-12-2005

Between

A. Firoz Basha, S/o. a. Mohammad Basha, Occ: Business, R/o. Door No.10/1030, Trunk Road, Kadapa and another.

...PETITIONERS

AND

Commissioner, Municipal Corporation, Kadapa, Kadapa District and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondent No.1 and his staff dated 05.12.2005 orally asking the petitioners to surrender their properties bearing Old Door No.13/166 to 13/168, New Door No.13/183, 13/184 situated behind Second Gandhi Statue, Trunk Road, Kadapa and Old Door No.10-378-A, New Door No.10/1030 situated at Mottipedda Puli Street, Trunk Road, Kadapa of the first petitioner and New Door No.7/45 situated at Chilakala Bavi Street, Trunk Road, Kadapa of the second respondent respectively for the purpose of road widening without following due process of law as illegal.

Learned counsel for the petitioners submits that the Kadapa municipality has been recently upgraded as Municipal Corporation.

In view of the traffic congestion and to have free flow of traffic the Kadapa Municipal Corporation has decided to widen the roads,

for which they have identified 26 roads in the entire Kadapa municipal corporation. Learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening programme of the respondents and they have no objection for the said programme if their premises are acquired and if proper compensation is paid.

The only grievance of the petitioners is that the respondents without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law, are threatening the to demolish the existing structures for the purpose of road-widening.

The learned counsel for the petitioners further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well Sections 146 and 147 of the Municipal Corporation Act, 1955 (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

December 7, 2005

Note: Furnish C.C. of the order by 09.12.2005

(**B/O**)

DSK